

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2556**

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**Introduced by Assembly Member Fuller**

February 19, 2010

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~~An act to add Sections 6591.6, 7655.5, 8876.5, 12631.5, 30281.5, 32252.5, 40101.5, 41095.5, 43155.5, 45153.5, 46154.5, 50112.1, 55042.5, and 60207.5 to the Revenue and Taxation Code, relating to taxation. An act to amend Section 6593.5 of the Revenue and Taxation Code, relating to taxation.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2556, as amended, Fuller. State Board of Equalization: administration: interest waiver: foreign purchases.

*The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. That law exempts from use tax, the storage, use, or the consumption of the first \$800 of tangible personal property that is purchased in a foreign county and hand-carried into this state within a 30- day period. That law requires the payment of interest at a specified rate on a failure to timely pay taxes, from the date on which those amounts became due and payable to the state until the date of payment. That law authorizes the State Board of Equalization, in its discretion, to relieve all or any part of interest imposed under specified circumstances.*

*This bill would allow the board to relieve all or any part of the interest imposed on the failure to timely pay use tax on the storage, use, or other*

*consumption of tangible personal property, where the board discovered the nonpayment as a result of obtaining information with respect to the liability from United States Customs Service, if the tax is remitted within 90 days of notification by the board.*

~~Existing law requires the payment of interest on late payments, or late prepayments, of tax, fee, or surcharge payments at the modified adjusted rate per month under the provisions of the Sales and Use Tax Law, Motor Vehicle Fuel Tax Law, Use Fuel Tax Law, Cigarette and Tobacco Products Tax Law, Alcoholic Beverage Tax Law, Energy Resources Surcharge Law, Emergency Telephone Users Surcharge Act, Hazardous Substances Tax Law, Integrated Waste Management Fee Law, Oil Spill Response, Prevention, and Administration Fees Law, Underground Storage Tank Maintenance Fee Law, Fee Collection Procedures Law, Diesel Fuel Tax Law, and the law governing the taxation of insurance companies. Interest is charged on a per-month basis, with one month's interest charged for each month, or fraction of a month, that a payment or prepayment is unpaid.~~

~~This bill would allow the members of the State Board of Equalization, meeting as a public body, to find, under specified circumstances, that it is inequitable to compute interest on a monthly basis and to instead compute interest on a daily basis.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. Section 6593.5 of the Revenue and Taxation Code*
- 2     *is amended to read:*
- 3     6593.5. (a) The board, in its discretion, may relieve all or any
- 4     part of the interest imposed on a person by this part under the
- 5     following circumstances:
- 6         (1) Where the failure to pay tax is due in whole or in part to an
- 7         unreasonable error or delay by an employee of the board acting in
- 8         his or her official capacity.
- 9         (2) Where failure to pay use tax on a vehicle or vessel registered
- 10        with the Department of Motor Vehicles was the direct result of an
- 11        error by the Department of Motor Vehicles in calculating the use
- 12        tax.
- 13        (3) *Where use tax is remitted to the board within 90 days of the*
- 14        *board notifying the taxpayer of a nonpayment of use tax, which*

1 *notification is made as a result of the board obtaining information*  
2 *with respect to the liability from the United States Customs Service.*

3 (b) For purposes of this section, an error or delay shall be  
4 deemed to have occurred only if no significant aspect of the error  
5 or delay is attributable to an act of, or a failure to act by, the  
6 taxpayer.

7 (c) Any person seeking relief under this section shall file with  
8 the board a statement under penalty of perjury setting forth the  
9 facts on which the claim for relief is based and any other  
10 information which the board may require.

11 (d) The board may grant relief only for interest imposed on tax  
12 liabilities that arise during taxable periods commencing on or after  
13 July 1, 1999.

14 ~~SECTION 1. It is the intent of the Legislature that California's~~  
15 ~~penalty and interest provisions foster and maintain the current high~~  
16 ~~level of compliance, provide appropriate costs and sanctions for~~  
17 ~~noncompliance, and provide a reasonable and administrable degree~~  
18 ~~of latitude for individual taxpayer circumstances and errors. It is~~  
19 ~~the intent of the Legislature in enacting this act, that the State~~  
20 ~~Board of Equalization strictly and narrowly apply its provisions~~  
21 ~~on a case-by-case basis and only in special circumstances.~~

22 ~~SEC. 2. Section 6591.6 is added to the Revenue and Taxation~~  
23 ~~Code, to read:~~

24 ~~6591.6. (a) If the board finds, taking into account all facts and~~  
25 ~~circumstances, that it is inequitable to compute interest at the~~  
26 ~~modified adjusted rate per month or fraction thereof, as defined~~  
27 ~~in subdivision (b) of Section 6591.5, interest shall be computed at~~  
28 ~~the modified adjusted daily rate from the date on which the tax or~~  
29 ~~prepayment was due until the date of payment, if all of the~~  
30 ~~following occur:~~

31 ~~(1) The payment of tax or the prepayment was made one~~  
32 ~~business day after the date the tax or prepayment was due.~~

33 ~~(2) The person was granted relief from all penalties that applied~~  
34 ~~to that payment of tax or prepayment.~~

35 ~~(3) The person files a request for an oral hearing before the~~  
36 ~~board.~~

37 ~~(b) For purposes of this section, "modified adjusted daily rate"~~  
38 ~~means the modified adjusted rate per annum as defined in~~  
39 ~~subdivision (a) of Section 6591.5 determined on a daily basis by~~  
40 ~~dividing the modified adjusted rate per annum by 365.~~

~~(e) For purposes of this section, “board” means the members of the State Board of Equalization meeting as a public body.~~

~~(d) For purposes of this section “business day,” means any day other than a Saturday, Sunday, or any day designated as a state holiday.~~

~~(e) This section shall not apply to any payment made pursuant to a deficiency determination, a determination where no return has been filed, or a jeopardy determination issued by the board.~~

~~SEC. 3. Section 7655.5 is added to the Revenue and Taxation Code, to read:~~

~~7655.5. (a) If the board finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the tax or prepayment was due until the date of payment, if all of the following occur:~~

~~(1) The payment of tax or the prepayment was made one business day after the date the tax or prepayment was due.~~

~~(2) The person was granted relief from all penalties that applied to that payment of tax or prepayment.~~

~~(3) The person files a request for an oral hearing before the board.~~

~~(b) For purposes of this section, “modified adjusted daily rate” means the modified adjusted rate per annum as defined in subdivision (a) of Section 6591.5 determined on a daily basis by dividing the modified adjusted rate per annum by 365.~~

~~(e) For purposes of this section, “board” means the members of the State Board of Equalization meeting as a public body.~~

~~(d) For purposes of this section “business day,” means any day other than a Saturday, Sunday, or any day designated as a state holiday.~~

~~(e) This section shall not apply to any payment made pursuant to a deficiency determination, a determination where no return has been filed, or a jeopardy determination issued by the board.~~

~~SEC. 4. Section 8876.5 is added to the Revenue and Taxation Code, to read:~~

~~8876.5. (a) If the board finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined~~

1 in subdivision (b) of Section 6591.5, interest shall be computed at  
2 the modified adjusted daily rate from the date on which the tax  
3 was due until the date of payment, if all of the following occur:

4 (1) The payment of tax was made one business day after the  
5 date the tax was due.

6 (2) The person was granted relief from all penalties that applied  
7 to that payment of tax.

8 (3) The person files a request for an oral hearing before the  
9 board.

10 (b) For purposes of this section, “modified adjusted daily rate”  
11 means the modified adjusted rate per annum as defined in  
12 subdivision (a) of Section 6591.5 determined on a daily basis by  
13 dividing the modified adjusted rate per annum by 365.

14 (c) For purposes of this section, “board” means the members  
15 of the State Board of Equalization meeting as a public body.

16 (d) For purposes of this section “business day,” means any day  
17 other than a Saturday, Sunday, or any day designated as a state  
18 holiday.

19 (e) This section shall not apply to any payment made pursuant  
20 to a deficiency determination, a determination where no return has  
21 been filed, or a jeopardy determination issued by the board.

22 SEC. 5. Section 12631.5 is added to the Revenue and Taxation  
23 Code, to read:

24 12631.5. (a) If the board finds, taking into account all facts  
25 and circumstances, that it is inequitable to compute interest at the  
26 modified adjusted rate per month or fraction thereof, as defined  
27 in subdivision (b) of Section 6591.5, interest shall be computed at  
28 the modified adjusted daily rate from the date on which the tax or  
29 prepayment was due until the date of payment, if all of the  
30 following occur:

31 (1) The payment of tax or prepayment was made one business  
32 day after the date the tax or prepayment was due.

33 (2) The person was granted relief from all penalties that applied  
34 to that payment of tax or prepayment.

35 (3) The person files a request for an oral hearing before the  
36 board.

37 (b) For purposes of this section, “modified adjusted daily rate”  
38 means the modified adjusted rate per annum as defined in  
39 subdivision (a) of Section 6591.5 determined on a daily basis by  
40 dividing the modified adjusted rate per annum by 365.

~~(e) For purposes of this section, “board” means the members of the State Board of Equalization meeting as a public body.~~

~~(d) For purposes of this section “business day,” means any day other than a Saturday, Sunday, or any day designated as a state holiday.~~

~~(e) This section shall not apply to any payment made pursuant to a deficiency determination, or a determination where no return has been filed.~~

~~SEC. 6. Section 30281.5 is added to the Revenue and Taxation Code, to read:~~

~~30281.5. (a) If the board finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the tax was due until the date of payment, if all of the following occur:~~

~~(1) The payment of tax was made one business day after the date the tax was due.~~

~~(2) The person was granted relief from all penalties that applied to that payment of tax.~~

~~(3) The person files a request for an oral hearing before the board.~~

~~(b) For purposes of this section, “modified adjusted daily rate” means the modified adjusted rate per annum as defined in subdivision (a) of Section 6591.5 determined on a daily basis by dividing the modified adjusted rate per annum by 365.~~

~~(e) For purposes of this section, “board” means the members of the State Board of Equalization meeting as a public body.~~

~~(d) For purposes of this section “business day,” means any day other than a Saturday, Sunday, or any day designated as a state holiday.~~

~~(e) This section shall not apply to any payment made pursuant to a deficiency determination, a determination where no report or return has been filed, or a jeopardy determination issued by the board.~~

~~SEC. 7. Section 32252.5 is added to the Revenue and Taxation Code, to read:~~

~~32252.5. (a) If the board finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined~~

1 in subdivision (b) of Section 6591.5, interest shall be computed at  
2 the modified adjusted daily rate from the date on which the tax  
3 was due until the date of payment, if all of the following occur:

4 (1) The payment of tax was made one business day after the  
5 date the tax was due.

6 (2) The person was granted relief from all penalties that applied  
7 to that payment of tax.

8 (3) The person files a request for an oral hearing before the  
9 board.

10 (b) For purposes of this section, “modified adjusted daily rate”  
11 means the modified adjusted rate per annum as defined in  
12 subdivision (a) of Section 6591.5 determined on a daily basis by  
13 dividing the modified adjusted rate per annum by 365.

14 (c) For purposes of this section, “board” means the members  
15 of the State Board of Equalization meeting as a public body.

16 (d) For purposes of this section “business day,” means any day  
17 other than a Saturday, Sunday, or any day designated as a state  
18 holiday.

19 (e) This section shall not apply to any payment made pursuant  
20 to a deficiency determination, a determination where no return has  
21 been filed, or a jeopardy determination issued by the board.

22 SEC. 8. Section 40101.5 is added to the Revenue and Taxation  
23 Code, to read:

24 40101.5. (a) If the board finds, taking into account all facts  
25 and circumstances, that it is inequitable to compute interest at the  
26 modified adjusted rate per month or fraction thereof, as defined  
27 in subdivision (b) of Section 6591.5, interest shall be computed at  
28 the modified adjusted daily rate from the date on which the  
29 surcharge was due until the date of payment, if all of the following  
30 occur:

31 (1) The payment of the surcharge was made one business day  
32 after the date the surcharge was due.

33 (2) The person was granted relief from all penalties that applied  
34 to that payment of the surcharge.

35 (3) The person files a request for an oral hearing before the  
36 board.

37 (b) For purposes of this section, “modified adjusted daily rate”  
38 means the modified adjusted rate per annum as defined in  
39 subdivision (a) of Section 6591.5 determined on a daily basis by  
40 dividing the modified adjusted rate per annum by 365.

~~(e) For purposes of this section, “board” means the members of the State Board of Equalization meeting as a public body.~~

~~(d) For purposes of this section “business day,” means any day other than a Saturday, Sunday, or any day designated as a state holiday.~~

~~(e) This section shall not apply to any payment made pursuant to a deficiency determination, or a determination where no return has been filed.~~

~~SEC. 9. Section 41095.5 is added to the Revenue and Taxation Code, to read:~~

~~41095.5. (a) If the board finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the surcharge was due until the date of payment, if all of the following occur:~~

~~(1) The payment of the surcharge was made one business day after the date the surcharge was due.~~

~~(2) The person was granted relief from all penalties that applied to that payment of the surcharge.~~

~~(3) The person files a request for an oral hearing before the board.~~

~~(b) For purposes of this section, “modified adjusted daily rate” means the modified adjusted rate per annum as defined in subdivision (a) of Section 6591.5 determined on a daily basis by dividing the modified adjusted rate per annum by 365.~~

~~(e) For purposes of this section, “board” means the members of the State Board of Equalization meeting as a public body.~~

~~(d) For purposes of this section “business day,” means any day other than a Saturday, Sunday, or any day designated as a state holiday.~~

~~(e) This section shall not apply to any payment made pursuant to a deficiency determination, or a determination where no return has been filed.~~

~~SEC. 10. Section 43155.5 is added to the Revenue and Taxation Code, to read:~~

~~43155.5. (a) If the board finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined~~



1 in subdivision (b) of Section 6591.5, interest shall be computed at  
2 the modified adjusted daily rate from the date on which the tax or  
3 prepayment was due until the date of payment, if all of the  
4 following occur:

5 (1) The payment of tax or the prepayment was made one  
6 business day after the date the tax or prepayment was due.

7 (2) The person was granted relief from all penalties that applied  
8 to that payment of tax or prepayment.

9 (3) The person files a request for an oral hearing before the  
10 board.

11 (b) For purposes of this section, “modified adjusted daily rate”  
12 means the modified adjusted rate per annum as defined in  
13 subdivision (a) of Section 6591.5 determined on a daily basis by  
14 dividing the modified adjusted rate per annum by 365.

15 (c) For purposes of this section, “board” means the members  
16 of the State Board of Equalization meeting as a public body.

17 (d) For purposes of this section “business day,” means any day  
18 other than a Saturday, Sunday, or any day designated as a state  
19 holiday.

20 (e) This section shall not apply to any payment made pursuant  
21 to a deficiency determination, a determination where no report or  
22 return has been filed, or a jeopardy determination issued by the  
23 board.

24 SEC. 11. Section 45153.5 is added to the Revenue and Taxation  
25 Code, to read:

26 45153.5. (a) If the board finds, taking into account all facts  
27 and circumstances, that it is inequitable to compute interest at the  
28 modified adjusted rate per month or fraction thereof, as defined  
29 in subdivision (b) of Section 6591.5, interest shall be computed at  
30 the modified adjusted daily rate from the date on which the fee  
31 was due until the date of payment, if all of the following occur:

32 (1) The payment of the fee was made one business day after the  
33 date the fee was due.

34 (2) The person was granted relief from all penalties that applied  
35 to that fee payment.

36 (3) The person files a request for an oral hearing before the  
37 board.

38 (b) For purposes of this section, “modified adjusted daily rate”  
39 means the modified adjusted rate per annum as defined in

subdivision (a) of Section 6591.5 determined on a daily basis by dividing the modified adjusted rate per annum by 365.

(e) For purposes of this section, “board” means the members of the State Board of Equalization meeting as a public body.

(d) For purposes of this section “business day,” means any day other than a Saturday, Sunday, or any day designated as a state holiday.

(e) This section shall not apply to any payment made pursuant to a deficiency determination, a determination where no return has been filed or a jeopardy determination issued by the board.

SEC. 12. Section 46154.5 is added to the Revenue and Taxation Code, to read:

46154.5. (a) If the board finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the fee was due until the date of payment, if all of the following occur:

(1) The payment of the fee was made one business day after the date the fee was due.

(2) The person was granted relief from all penalties that applied to that fee payment.

(3) The person files a request for an oral hearing before the board.

(b) For purposes of this section, “modified adjusted daily rate” means the modified adjusted rate per annum as defined in subdivision (a) of Section 6591.5 determined on a daily basis by dividing the modified adjusted rate per annum by 365.

(e) For purposes of this section, “board” means the members of the State Board of Equalization meeting as a public body.

(d) For purposes of this section “business day,” means any day other than a Saturday, Sunday, or any day designated as a state holiday.

(e) This section shall not apply to any payment made pursuant to a deficiency determination, a determination where no return has been filed, or a jeopardy determination issued by the board.

SEC. 13. Section 50112.1 is added to the Revenue and Taxation Code, to read:

50112.1. (a) If the board finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the

1 ~~modified adjusted rate per month or fraction thereof, as defined~~  
2 ~~in subdivision (b) of Section 6591.5, interest shall be computed at~~  
3 ~~the modified adjusted daily rate from the date on which the fee~~  
4 ~~was due until the date of payment, if all of the following occur:~~

5 ~~(1) The payment of the fee was made one business day after the~~  
6 ~~date the fee was due.~~

7 ~~(2) The person was granted relief from all penalties that applied~~  
8 ~~to that fee payment.~~

9 ~~(3) The person files a request for an oral hearing before the~~  
10 ~~board.~~

11 ~~(b) For purposes of this section, “modified adjusted daily rate”~~  
12 ~~means the modified adjusted rate per annum as defined in~~  
13 ~~subdivision (a) of Section 6591.5 determined on a daily basis by~~  
14 ~~dividing the modified adjusted rate per annum by 365.~~

15 ~~(c) For purposes of this section, “board” means the members~~  
16 ~~of the State Board of Equalization meeting as a public body.~~

17 ~~(d) For purposes of this section “business day,” means any day~~  
18 ~~other than a Saturday, Sunday, or any day designated as a state~~  
19 ~~holiday.~~

20 ~~(e) This section shall not apply to any payment made pursuant~~  
21 ~~to a deficiency determination, a determination where no return has~~  
22 ~~been filed or a jeopardy determination issued by the board.~~

23 ~~SEC. 14. Section 55042.5 is added to the Revenue and Taxation~~  
24 ~~Code, to read:~~

25 ~~55042.5. (a) If the board finds, taking into account all facts~~  
26 ~~and circumstances, that it is inequitable to compute interest at the~~  
27 ~~modified adjusted rate per month or fraction thereof, as defined~~  
28 ~~in subdivision (b) of Section 6591.5, interest shall be computed at~~  
29 ~~the modified adjusted daily rate from the date on which the fee~~  
30 ~~was due until the date of payment, if all of the following occur:~~

31 ~~(1) The payment of the fee was made one business day after the~~  
32 ~~date the fee was due.~~

33 ~~(2) The person was granted relief from all penalties that applied~~  
34 ~~to that fee payment.~~

35 ~~(3) The person files a request for an oral hearing before the~~  
36 ~~board.~~

37 ~~(b) For purposes of this section, “modified adjusted daily rate”~~  
38 ~~means the modified adjusted rate per annum as defined in~~  
39 ~~subdivision (a) of Section 6591.5 determined on a daily basis by~~  
40 ~~dividing the modified adjusted rate per annum by 365.~~

~~(e) For purposes of this section, “board” means the members of the State Board of Equalization meeting as a public body.~~

~~(d) For purposes of this section “business day,” means any day other than a Saturday, Sunday, or any day designated as a state holiday.~~

~~(e) This section shall not apply to any payment made pursuant to a deficiency determination, a determination where no return has been filed or a jeopardy determination issued by the board.~~

~~SEC. 15. Section 60207.5 is added to the Revenue and Taxation Code, to read:~~

~~60207.5. (a) If the board finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the tax was due until the date of payment, if all of the following occur:~~

~~(1) The payment of tax was made one business day after the date the tax was due.~~

~~(2) The person was granted relief from all penalties that applied to that payment of tax.~~

~~(3) The person files a request for an oral hearing before the board.~~

~~(b) For purposes of this section, “modified adjusted daily rate” means the modified adjusted rate per annum as defined in subdivision (a) of Section 6591.5 determined on a daily basis by dividing the modified adjusted rate per annum by 365.~~

~~(e) For purposes of this section, “board” means the members of the State Board of Equalization meeting as a public body.~~

~~(d) For purposes of this section “business day,” means any day other than a Saturday, Sunday, or any day designated as a state holiday.~~

~~(e) This section shall not apply to any payment made pursuant to a deficiency determination, a determination where no return has been filed or a jeopardy determination issued by the board.~~